IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
APPELLATE CIVIL JURISDICTION

CIVIL APPLICATION NO.1643 OF 2007
IN
FIRST APPEAL NO.984 OF 2007

M/s. DIA-ICHI KARKARIA LTD. ...Applicants/Appellants
(Orig.Plaintiffs)

Vs.

Pimpri Chinchwad Municipal Corpn. & one ...Respondents

Mr.V.A.Thorat, Sr. Advocate
i/b. M/s.Thakordas & Madgaonkar
Mr. Walawalkar, Sr. Advocate i/b. G.H.Keluskar for
Respondent no.1

CORAM: SHRI J.N.PATEL &
SMT. ROSHAN DALVI, JJ.
DATED: 4TH APRIL, 2007

P.C.

1. Heard.

2. This is an application filed by the Appellants seeking stay of the order and judgment dated 7th December, 2006 on dismissal of their Special Suit No.112 of 2003, seeking declaration as regards classification of the chemicals for the purpose of octroi duty. In view of the fact that the suit of the Appellants has been dismissed, there cannot be any stay restraining the Respondents from recovering Octroi duty

from the Applicants/Appellants, so far as the disputed amount, i.e, the subject matter of the Spl.Suit No.112/1983 is concerned.

3. Mr. Thorat, the learned Sr. Advocate appearing for the Applicants submitted that the Applicants/Appellants may be directed to furnish bank guarantee to secure amount of octroi as well as the interest, which is claimed by the Respondents Corporation.

4. Mr. Walawalkar, learned Senior Advocate submits that as the matter pertains to revenue and municipal fund and the amount is in the sum of Rs.1 crore and above, at least 50% of the amount be directed to be deposited and about the remaining 50%, and statutory interest is concerned the Court may consider for securing the same by the appellant furnishing bank guarantee.

5. In our view the Appellants/Applicants having lost the Suit they are liable to pay octroi duty as claimed by the respondent Corporation. We therefore, grant stay in the nature of restraining the Respondents from recovering the duty for the period of 1990 to 2000 on their depositing 50% of the octroi duty claimed in cash and furnish a bank guarantee for the remaining 50% of the amount due

alongwith statutory interest which is due and payable from the date of demand till the amount is recovered and on such payment being made and bank guarantee being furnished within a period of 8 weeks, there shall be interim stay in terms of prayer clause b(3), in this sense that as defined in the amended rules the appellant could be permitted to open a new Current Account and avail of the facilities as dues in the earlier account stands fully protected by our interim order.

6. Civil Application is disposed of accordingly.

(J.N.PATEL, J.)

(SMT.ROSHAN DALVI, J.)